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THE ADMINISTRATION OF INCENTIVES FOR INDUSTRIAL EXPORTS IN DEVELOPING COUNTRIES

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CONCLUSIONS

(i) The efficient administration of export incentive measures is necessary if they are to achieve the optimum impact on a country's export performance. Though incentives have to be dealt with on a pragmatic basis and related to the actual needs of a country, the administration of export incentive measures, irrespective of their nature and specific objectives, should conform to a number of basic rules of efficient management.

(ii) The administration of a particular export incentive should, to the extent possible, be vested in one authority only. Where the involvement of two or more different bodies is deemed necessary, the exporter should be required to deal with only one authority.

(iii) The issue of centralized versus decentralized administration of export incentive measures cannot be decided in one way or the other uniformly for all export incentives. One guiding principle in organizing the administrative structure should be the requirement that decisions on granting incentives have to be taken as expeditiously as required by the individual case. This will in the case of some incentive measures necessitate the conferring of decision-making power to authorities located close to the industrial unit which applies for a particular incentive benefit. Export incentive measures may be administered centrally if the workload involved can be handled by a comparatively small staff and the distance between the central authority and the exporter does not impair the promotional impact of the incentive. Accordingly, centralization is practicable if speedy processing is not an indispensable prerequisite to make the incentive fully effective.

(iv) In the administration of export incentives, safeguards and controls are applied in various forms to prevent the granting of benefits where no rightful claim exists. Though such safeguards cannot be discarded completely if export incentive schemes are to work to the common economic benefit, possibilities may be examined to streamline or eliminate controls which make the administration unwieldy or burden the exporter unnecessarily with additional cost. The administration may rely to a greater extent on sanctions applied post facto in cases where it has been proved that the exporter was given the incentive benefit without fulfilling the requirements.

(v) Speed and efficiency of the administration of incentives very much depend on the administrative style in which applications for incentive benefits are handled and the administrative expertise with which they are processed. Applications should be handled with the intention to serve and assist the exporter rather than to bog him down in administrative red tape. The information requested from the exporter applying for a particular incentive benefit must be limited to the minimum extent possible. Discretionary powers on the part of the administration should, as far as practicable, be eliminated.

(vi) The authorities which administer export incentive measures should be consistent in their decisions on applications for a particular export benefit. The exporter should be able to assess in advance with a reasonable degree of certainty whether or not he will be granted a certain incentive benefit with regard to a

specific export transaction. Focal institutions such as export promotion bureaux established to assist exporters can play an important role in safeguarding consistency in decision-making. Exporters may be encouraged to submit doubtful decisions to these institutions which would take up the matter with the authorities concerned. In this way a large number of complaints will be brought to the attention of one authority. This authority would, thus, be able to collect information on a large scale on the administration of incentives and to identify incompatibilities in decision-making.

(vii) The multiplicity, variety and complexity in the design of administrative forms and export documents make the completion and processing of these papers exasperating and time-consuming. Governments may, therefore, consider the possibilities for rationalization and simplification of administrative forms and export documents to reduce the workload of the exporters, the authorities and the commercial institutions.

(viii) It is essential to monitor on a continuous basis the progress and efficiency of the implementation of export incentives. For this purpose, an efficient reporting system could be established in each of the departments or authorities concerned with the administration of a particular incentive measure. The evaluation of the information collected would best be carried out within one central institution preferably a country's export promotion bureau.

INTRODUCTION

1. In accordance with its mandate, the Committee on Manufactures, during its various sessions, has discussed the export incentives policies which would be conducive to the expansion and diversification of the export trade of developing countries in manufactures and semi-manufactures. Pursuant to the agreement of the Committee to keep the subject of export incentives under review and resume consideration of it at future sessions, 1/ the present report examines a number of administrative aspects of export incentive measures. As experience shows that the efficient administration of these measures is necessary if they are to achieve the optimum impact on a country's export performance, the consideration of ways and means of streamlining and expediting their administration is of great practical importance.

2. This report is concerned only with those incentive measures which are directly and specifically aimed at expanding and diversifying manufactured exports. 2/ Incentives which are granted to industries generally or regionally are not dealt with, though it is recognised that they also can improve the export position of the industries in question. 3/ The report deals, in chapter I, with general aspects of the administration of export incentives, and discusses, in chapters II to VI, special issues and problems regarding the administration of selected export incentive measures.

1/ See Official Records of the Trade and Development Board, Tenth Session, Supplement No. 2 (TD/B/295 - TD/B/C.2/97), para. 117.

2/ The study uses, inter alia, material collected on a fact-finding mission to four selected developing countries, and information which was made available to the secretariat by States members of UNCTAD in response to a questionnaire issued for this purpose by the secretariat.

3/ For example, investment allowances; accelerated depreciation allowances; tax holidays; the provision of factories, electricity, water, etc., free of charge or at nominal rates. Furthermore, the report does not cover incentives in the form of cash assistance; for an evaluation of the special position of developing countries in this regard, see Export subsidies, countervailing and anti-dumping duties and the developing countries, report by the UNCTAD secretariat, TD/B/C.2/R.6; and Anti-dumping and countervailing duties and the problems of export subsidization in developing countries, report by the UNCTAD secretariat, TD/B/C.2/147. For a general evaluation of export incentive measures, see Incentives for Industrial Exports, study by the UNCTAD secretariat (TD/B/C.2/89/Rev.1), United Nations publication, Sales No. E.70.II.D.8.

Chapter I

GENERAL ASPECTS OF THE ADMINISTRATION OF INCENTIVES FOR INDUSTRIAL EXPORTS

A. Types of incentives for industrial exports in developing and developed countries 4/

3. Incentives employed for the purpose of increasing exports of manufactured and semi-manufactured goods may be broadly divided into five categories: (i) tax and duty concessions; (ii) preferential import licensing for exporters; (iii) incentives in the context of foreign exchange rates; (iv) export credit and export credit insurance facilities; and (v) government marketing assistance. This grouping of export incentive measures is, of course, only one of several that might have been chosen and other equally valid groupings are conceivable.

4. Among the export incentive measures which are applied both in developing and developed countries to increase their exports of manufactures are income tax concessions with regard to earnings from exports, exemptions of exports from turnover tax, excise duty and sales tax, refund of import duties under drawback schemes, duty-free importation of production inputs, export credit and export credit insurance schemes, and government marketing assistance including financial assistance for export promotion purposes.

5. Some other incentives are mainly encountered in developing countries; such incentives are preferential import licensing for exporters, manufacture-in-bond facilities, export processing free zones, price adjustments for removing competitive disadvantages resulting from a high domestic price level much above international prices, and, to a lesser extent, incentives in the context of foreign exchange rates, for instance currency retention schemes or multiple exchange rate systems.

6. There exists no single blueprint for the use of incentives to expand and diversify exports of manufactured products. Essentially, incentives must be dealt with on a pragmatic basis and related to the actual needs of a country. 5/ The administration of export incentive measures should, however, irrespective of their nature and specific objectives, conform to a number of basic rules of efficient management. The following considerations present some major issues.

B. Number of authorities involved in the administration of a particular incentive measure

7. In the case of a number of export incentives, several different authorities are involved in the implementation of one and the same incentive measure. An illustrative example is the administration of import duty drawback schemes for the refund of duties on imported inputs for export production. The verification of the exporter's statements made in his application for fixing the drawback rate, the fixation and notification of the rate, and, after shipment of the goods, the

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4/ Little information is available about export incentives applied in the socialist countries of Eastern Europe.

5/ See also Incentives for Industrial Exports, study by the UNCTAD secretariat (TD/B/C.2/89/Rev. 1) p.3. (United Nations publication, Sales No. E.70.II.D.8).

processing and payment of the drawback claim, are under many schemes entrusted to three different authorities. In some cases, an even greater number of administrative bodies is engaged in the decision-making process. Thus, it may be that the drawback claim is first checked by a refund committee which recommends payment, is, subsequently, passed on to a fiscal authority, such as the treasury, for approval, while the actual disbursement is effected by still another authority. Similar situations may be encountered in the areas of refund of excise duty or sales tax.

8. Consideration may be undertaken of the extent to which the administration of a particular export incentive measure can be vested in one authority only. Such streamlining may be feasible with regard to a number of incentive measures. In some other cases, governments may consider it preferable to involve two institutions because decision-making requires additional expertise, in particular of a technical nature, which the authority administering the incentive does not possess. Thus, the issue of import replenishment licences may require a determination of the composition of an export item, and the issue of a licence on preferential conditions for the import of machinery may necessitate an assessment as to whether the machinery is needed for purposes of replacement, balancing or modernization.

9. In such cases, possibilities could also be examined of using the services of private but State registered institutions possessing the specific expertise required, for instance chartered engineers, instead of involving official bodies such as a directorate of technical development or a ministery of industry. This could offer two advantages. First, institutions like chartered engineers which operate on a commercial basis, would have a strong interest of their own in carrying out the examinations expeditiously. And, secondly, potential rivalries between official bodies which may entail delays in processing would be eliminated.

10. In any case, exporters should be required to deal with only one authority, independent of whether or not two official bodies are involved or only one administrative authority which draws on the services of a specialized private State-registered institution. Thus, the exporter would submit his application to the authority designated which would also forward to the exporter any demands for additional information, and finally notify the exporter of the official decision.

C. Centralized or decentralized administration of export incentive measures

11. In the case of centralized administration, the decision-making power to grant an export incentive is vested in one central body, whereas under a decentralized system, a number of regional authorities have the competence to decide on according a particular incentive benefit. In practice, the administrative mechanism is not always organized in such a way that it conforms to this clear-cut differentiation. For instance, advance import licences for manufacturing exporters are normally issued by regional licensing bodies, but may have to be granted by the Chief Controller for Imports and Exports if they concern duty-free imports. Or, licences under cash authorizing the import of machinery for an export-oriented industry may be issued by the regional licensing offices only up to a certain maximum value and may be submitted to the Chief Controller if larger values are involved. Another example is provided by government-backed export refinancing schemes which cater to the short-term credit requirements of exporters. Such facilities are normally administered by a central body, such as a reserve bank, whereas the finance is channelled to the exporter through branches of commercial banks which may also be given limited decision-making powers up to certain credit limits.

12. It does not appear feasible to decide the issue of centralized versus decentralized administration in one way or the other uniformly for all export incentive measures. A guiding principle in organizing the administrative structure should be the requirement that decisions on granting incentives have to be taken as expeditiously as required by the individual case. This will, in the case of some incentive measures such as the issue of import replenishment licences, necessitate the conferring of decision-making power on authorities located close to the industrial unit which applies for a particular export incentive benefit. Proximity helps eliminate delays, not only because it allows rapid communication between administration and exporter but also because the regional or local authority has a much more intimate knowledge than a central body of the exporter's special situation which may be of relevance in the decision-making process. The concept of decentralized administration does not, however, necessarily imply that the decision-making power is entrusted to an administrative body which is located near to the exporter's factory. Thus, a claim for import duty refund can be more expeditiously processed by the port customs or land customs authority from whose jurisdiction the finished products have been exported.

13. Centralized administration offers the advantage that the concentration of work in one body reduces considerably the staff requirements. Export incentive measures may be administered centrally if the workload involved can be handled by a comparatively small staff and the distance between the central authority and the exporter does not impair the promotional impact of the incentive measure. Accordingly, centralization is practicable if speedy processing is not an indispensable prerequisite to make the incentive fully effective. For instance, the provision of concessional longer-term export credit to finance exports of capital goods does not require instant decisions and can be entrusted to a central development finance institution. Similarly, activities in the area of government marketing assistance such as collection and dissemination of market information which are carried out on a regular basis and do not require any decisions in response to specific applications can be administered by central institutions.

D. Safeguards applied in the administration of export incentives

14. In the administration of export incentives, precautionary measures are taken with a view to prevent the granting of benefits where no rightful claim exists and to forestall abusive practices. Safeguards and controls can be applied in various forms. A safeguard frequently encountered is to require the exporter, before the incentive benefit is granted, to furnish a bank guarantee for the purpose of securing fiscal and other public interests. The bank guarantee is executed if it turns out that the exporter had no valid claim. Thus, a bank guarantee has to be given in cases where a provisional payment of drawback is made before the customs authority has finally sanctioned the claim. Where the exporting manufacturer is granted an advance import licence, he may be required to put up a bank guarantee of double the value of the imported licence; the bank guarantee would become due if the exporter does not meet his "export obligation", that is the f.o.b. value of his exports made does not tally with the quantity of production inputs imported. Controls can also take the form of physical checks, mainly by tax and customs authorities; for instance, in the case of bonded manufacturing, the production process and the movement of imported inputs and exported finished goods are under complete and continual customs supervision.

15. A third type of safeguard may be characterized as "built-in" controls. The safeguarding effect is achieved by limiting the scope of the incentive measure because the exercise of control is considered to be administratively difficult or impracticable if the benefit were granted more liberally. It is for this reason that duty-free importation of inputs for export production is frequently granted only if the imported items do not lose their identity in the process of manufacturing. Finally, safeguards may take the form of sanctions applied post facto. Thus, an exporter who was granted preferential export finance is normally required to pay penal interest if he was not eligible or does not repay the credit within the period stipulated.

16. It stands to reason that safeguards and controls cannot be discarded completely if export incentives schemes are to work to the common economic benefit. On the other hand, safeguards should not make the administration unwieldy, or burden the exporter unnecessarily with additional cost. It seems that prevailing procedures have been designed in many cases to catch "would-be defaulters", rather than to cater to the requirements of the normal run of exporting manufacturers who conform to rules and regulations laid down in respect of export incentive measures. In particular, in the area of import duty concessions, procedures have been devised basically from the angle of preventing the diversion of imports into the local market. The necessity to bind the exporter down with financial collaterals, increasing his cost and reducing any competitive edge he might have, is not evident in all cases. In the case of bonded manufacturing with continual customs supervision, for instance, the bank guarantee to be furnished under a number of schemes to secure potential import duty claims would not appear to be justified, and may even nullify the incentive benefit of duty-free importation.

17. Consideration may be given to examining the possibilities for streamlining or eliminating unwieldy or costly safeguards. In this context it may be assumed that exporters will, by and large, comply with the rules and regulations and not avail themselves of incentive benefits in an abusive fashion. As a rule, the objective of incentive measures - that is, supporting exporters in expanding and diversifying their exports of manufactured goods - should be given priority over considerations of control. The administration may, instead, rely to a greater extent on sanctions applied post facto in cases where it has been proved that the exporter was given the incentive benefit without fulfilling the requirements.

4. Speed and efficiency of processing applications

18. Speed and efficiency of the administration of incentive measures depend not only on the administrative structure and the extent of safeguards and controls applied, but also on the administrative style in which applications for incentive benefits are handled and the administrative expertise with which they are processed. Experience shows that the administration is in many cases too slow and benefits reach the exporters only with considerable delays. There are several reasons for this.

19. One reason appears to be the bureaucratic approach pursued by many officials in processing applications. A major complaint on the part of exporters is that authorities show a tendency to make queries and raise objections in a piecemeal fashion instead of requesting clarifications and documents in one operation. Sometimes, exporters also complain about repeated examinations by customs

authorities with regard to one and the same import or export consignment. From the point of view of exporters, such practices may appear to be unnecessary harassments. Secondly, the information and documentation requested in the application forms is normally very detailed. As a result, formalities become complicated, making it difficult and time-consuming for the applicant to meet all requirements and for the authorities to check and analyse the information provided. Thirdly, discretionary powers can be the cause for delays, in particular if it is left completely to the official in which order and span of time incoming applications are to be processed. Finally, officials concerned are often not properly trained and educated in their respective fields of work.

20. It should be noted that inefficiency in the processing of applications tends to work to the particular disadvantage of small exporters, especially those who are beginners in export business. They have difficulties in coping with the amount of paperwork and in dealing with the various officials concerned, as they have neither the time nor the staff to follow-up their applications continually. These difficulties are less pressing in the case of large exporting entrepreneurs who can apply "economies-of-scale" even in this regard as they possess the financial means to employ a number of staff exclusively for handling export incentive claims.

21. To expedite the processing of applications, a number of suggestions may be considered. First, applications should be handled with the intention rather to serve and assist the exporter than to bog him down in administrative red tape. In particular, authorities should request clarifications or documents in one operation and not in piecemeal fashion. Secondly, the information requested from the exporter applying for a particular export incentive benefit should be the minimum. Thirdly, as far as practicable, discretionary powers should be limited and the granting of incentive benefits be made more or less automatic provided the applicant meets the criteria stipulated. Officials may be required to dispose of applications in incoming order and a time-limit may be fixed for the disposal of each application. If applications are rejected, the reasons of rejection should be stated in writing to facilitate any appeal which the exporter might wish to make. And, finally, officials at the lower and middle administrative level, responsible for the checking and processing of applications, may be given opportunities for further regular training, both generally in administrative management and in their specific areas of work. Such training could be provided in short courses or seminars held on a recurrent basis.

F. Consistency in the administration of export incentive measures

22. The authorities which administer export incentive measures have to be consistent in their decisions on applications for a particular export benefit. The exporter should be able to assess in advance with a reasonable degree of certainty whether or not he will be granted a certain incentive benefit with regard to a specific export transaction. Thus, he should know, before he takes on an export order, if he will be entitled to import duty drawback, preferential production and export finance, income tax concessions with regard to his export earnings and other possible incentive benefits. As these benefits are important

factors in the exporter's costing, advance knowledge is an essential prerequisite for a firm and competitive price quotation. Similarly, the point in time when a certain benefit will be obtained is important for the exporter's cash-flow position. The ability to assess in advance if and when the exporter can obtain a preferential licence for the import of certain machinery can also be of relevance, for instance in cases where large export orders with a good chance of renewed orders depend on the expeditious expansion of the exporter's production capacity.

23. If the administrative bodies are inconsistent in their decisions, it becomes difficult or even impossible for the exporter to determine in advance the incentive benefits which he might be granted. The resulting uncertainty can adversely affect his export performance. The reason for inconsistencies can be a certain degree of arbitrariness on the part of administrating officials. Inconsistencies may also result when officials are not fully familiar with all entitlement criteria, which are frequently laid down in a number of laws and regulations. In other cases, discretionary powers given to the officials can be the cause of incompatibilities in decision-making, as officials may differ in the interpretation and application of laws and regulations concerned.

24. Remedial measures would, to some extent, coincide with those suggested to enhance speed and efficiency of processing applications, namely, eliminating discretionary powers as far as possible and providing regular training for administrative officials. Furthermore, focal institutions such as export promotion bureaux established to assist exporters can play an important role in safeguarding consistency in decision-making. Thus, special units may be set up in export promotion bureaux. Exporters could submit doubtful decisions to these units which would take up the matter with the authority concerned. As in this way a large number of administrative decisions will be brought to the attention of one authority, this institution can collect rather comprehensive information on the administration of export incentive measures and will be able to identify incompatibilities in decision-making on the basis of the information received. Finally, it would contribute to administrative consistency if, at the policy level, export incentives were not changed too rapidly and frequently as such changes tend to complicate the legal situation and confuse administrating officials.

6. Simplification of administrative forms and export documents

25. A characteristic of forms used in the administration of export incentives, and in export trade in general, is the considerable amount of information that has to be submitted to numerous institutions. An exporter has to provide information not only to public authorities such as licensing authorities and customs collectorates, but is also required to furnish similar kind of information to private institutions like commercial banks, and insurance and shipping companies. Thus, forms are issued from many sources and their designs have normally developed independently over the years. As a result, they very frequently differ widely in size and layout. This multiplicity, variety and complexity in the design of administrative forms and export documents make the completion and processing of these papers exasperating and time-consuming. Governments may, therefore, consider the possibilities for rationalization and simplification of administrative forms and export documents to reduce the workload

on both the exporters and the authorities. The setting up of special committees with representatives from the public sector and the exporting business community can facilitate the investigation of ways and means to simplify, standardize, merge or dispense with forms and documents of administrative authorities and commercial institutions. 6/

H. Administrative machinery for the follow-up of export incentive measures

26. It is essential to monitor on a continuous basis the progress and efficiency of the implementation of export incentive measures. At present, the information required for a continual evaluation of economic and administrative advantages and disadvantages of the various export incentives implemented is hardly available in developing countries. In particular, statistical information necessary to assess financial implications is lacking. It thus seems important that comprehensive and up-to-date records and statistics should be maintained of the various incentive facilities. For this purpose, an efficient reporting system could be established in each of the departments or authorities concerned with the administration of a particular incentive measure. Whereas the collection of information would thus have to be decentralized, the evaluation of this information is best carried out within one central institution. The most appropriate institution to evaluate the costs and benefits of export incentive schemes, as well as the administrative efficiency with which they are implemented, appears to be a country's export promotion bureau. Collection of comprehensive information and a thorough and well-founded evaluation of this information would enable the developing country to keep track of the impact of the export incentive scheme on the country's export performance. Furthermore, the continual review and evaluation of export incentive measures should be undertaken in consultation with the established trade chambers representing export businessmen, since the expansion of exports ultimately depends on the activities of the exporting business community.

6/ UNCTAD supports efforts to streamline and harmonize documentation in international trade through its "Special Programme on Trade Facilitation".

Chapter II

ADMINISTRATIVE ASPECTS OF PREFERENTIAL IMPORT LICENSING FOR EXPORTERS

27. The scarcity of their foreign exchange resources and purposes of import substitution require the developing countries to control imports. Accordingly, most imports can only be effected under import licences. The licensing of imports is administered normally by an import and export control authority, whereas the necessary foreign exchange is released by the central bank or a special exchange control authority under the direction of the central bank. Industries require foreign exchange in particular for the import of raw materials, components and capital goods. Industries which export the whole or part of their production are considered separately from those which cater for the domestic market. Preferential import licensing for export-oriented industries is applied in many developing countries as an incentive measure to stimulate the exports of manufactured and semi-manufactured goods.

28. The preferential elements in import licensing for exporters can take various forms. The exporter may be granted free foreign exchange for his imports as compared to other sources of finance such as imports under tied credit or in the context of barter arrangements. He may also be allowed free choice as regards the sources of supply enabling him for instance to import tied-list items from world-wide sources. The exporter may, furthermore, be granted liberal permission to import banned items if they are required for export production, or to import directly canalized items, that is items which can normally only be imported through public sector agencies. As regards the quantity of imports permissible, the exporter may be allowed to determine his import requirements himself according to his production capacity and likely export orders whereas under regular import control, import entitlements are fixed by the authorities.7/ Import licences which are granted against export performance may be made transferable, enabling the exporter to sell the licence domestically against payment of a premium.8/

29. Besides these preferential elements in import licensing for exporters, the efficient administration of import licensing schemes is of equal importance for promoting exports of manufactured and semi-manufactured goods. The main requirements are expeditious issuance of licences, and transparency of the licensing system, in particular the limitation of the types of licences and the number of authorities involved in the issue of one licence to the extent possible.

A. Import licences to meet specific export orders ("Specific import licence")

30. Import licences may be issued on a case-by-case basis on the presentation of specific export orders to enable the exporter to import the materials and components required to produce the items to be exported. The issue of these

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7/ However, by obtaining the licence, the exporter incurs an "export obligation" to carry out the f.o.b. value of exports estimated by him. He may also be required to put up a bank guarantee for double the value of the import licence.

8/ Such a scheme is for instance operated in Bangladesh (The Export Performance Licensing Scheme).

import licences requires firm export orders. It may even be made a necessary prerequisite that irrevocable letters of credit have been established for the export orders by the overseas buyer. Furthermore, a minimum net foreign exchange earning of a specified percentage as a result of the export of the manufactured goods may be required. In quantifying the net foreign exchange earning, only the direct foreign exchange costs of imported inputs for export production are normally taken into consideration. The issue of import licences on a case-by-case basis frequently involves delays, as authorities may take their time in checking the genuineness of the supporting documents and the accuracy of the foreign exchange earning. This can make it difficult for the exporter to meet export orders promptly.

B. Advance import licences for regular exporters

31. In order to facilitate the timely supply of goods to overseas buyers, the licensing authorities in a number of developing countries grant advance import licences to regular exporters. Under these licences, the exporter can import his requirements for a certain period, say, half a year or a year, without reference to a specific export order. In this way, the exporter is enabled to build up a buffer stock of materials and components to be utilized in his production for export. The licences are granted to exporters who have a fairly large export turnover and have established a satisfactory reputation as exporters. However, the qualifications required for recognition as a regular exporter are not always clearly laid down, the deciding factor being the interpretation of the administrating official. Experience shows that even exporters who had made regular exports to well-established overseas buyers for a few years were sometimes not accepted as regular exporters. It is, therefore, desirable, that the criteria which determine the qualifications to be fulfilled by a "regular" exporter are carefully defined by the import licensing scheme and, furthermore, are notified to the exporter.

C. Import Replenishment Licences

32. To further increase the speed and flexibility of the manufacturer-exporter in meeting export orders, import licensing schemes may also provide for "Import Replenishment Licences". This type of licence is issued after the export has been made and allows the exporter to replenish his stock of the raw materials or components used in producing the items exported. The prominent feature of Import Replenishment Licences is that the import replenishment allowed is expressed as a fixed percentage of the f.o.b. value of the product exported. Import Replenishment Licences are granted in addition to advance import licences.

33. The Import Replenishment Licence offers two main advantages. First, the issue of the licence is administratively relatively simple. The main documentation to be submitted by the exporter with his application would comprise his invoice, a copy of stamped customs entry of the port of exportation and a copy of the bill of lading setting out the quantity of the goods exported and their f.o.b. price. The authority issuing the import licence can determine the import replenishment permissible on the basis of a schedule indicating the exported products covered by the Import Replenishment Scheme, the materials permitted for import against the export of an item covered by the Scheme and the percentage up to which import replenishment in terms of f.o.b. value of the export product is

allowed. The second advantage is the flexibility which Import Replenishment Licences give to the exporter in meeting export orders. He can, in particular, carry out export orders from his stock of finished goods which were produced for the domestic market, or can use raw materials and components imported for production for home selling, and thereafter replenish his stock of raw materials and components under an import replenishment licence.

34. The time limit for the application for Import Replenishment Licences from the date of the realization of the foreign exchange earnings may be fixed liberally. A period of six months which applies in some countries is sometimes considered as inadequate by exporters as it may not be economical to import materials in small consignments. A longer period of, say, one year would enable them to apply for a licence bearing a reasonable import value after the foreign exchange realization receipts have been accumulated to a larger amount. Such an extension would also reduce the workload of licensing authorities as exporters will submit less applications over the same period of time.

35. To further streamline the issuance of replenishment licences, the licensing authorities may issue the licence for the value claimed by the exporter without previous scrutiny of export documents. The documents will be scrutinized after the licence has been given. The difference, if any, between the amount of the licence given and the amount actually found due on detailed scrutiny can be adjusted against pending and future claims of the exporter. This procedure would enable licensing authorities to issue licences speedily and hand over the same across the counter. This facility may be confined to exporters who are well-established and have been in the export field for a certain time.2/

D. Flexibility in the use of import licences for exporters

36. The exporter may be allowed to utilize the three basic types of licences described in a flexible manner. The objective would be that the exporter is enabled to meet his import requirements for export production mainly through these licences, so that the need for any supplementary or special licences, for instance for the import of machinery or spare parts, be reduced to a minimum. A number of possibilities to achieve the flexibility desired may be considered.

(a) Combined utilization of advance import licences and specific import licences

37. The exporter who has been granted an advance import licence may be allowed to apply, in addition, for import licences to meet specific export orders. Thus, the exporter can take on new export orders exceeding the estimation of his export performance on which the value of his advance licence was based. He can also meet, under his advance licence, the import requirements which can be planned for some time ahead, and procure under specific licences imports which depend on the incoming export orders. For instance, a manufacturer-exporter of shirts may import under advance licence ancillary items such as plastic buttons, sewing thread or stiffeners. As the material from which the shirts are manufactured will depend on the orders of the buyers, the material required such as cotton or nylon can be procured under specific licences after an export order has been secured.

2/ Such a procedure is applied in India. See, "Import Trade Control, Policy and Procedures", Indian Investment Centre, 1977, pages 48-49.

(b) Imports against Import Replenishment Licences "on the basis" of regular import licences.

38. A manufacturer-exporter will normally produce both for export and for domestic selling, and the items manufactured for export and those manufactured for home consumption will, in many cases, be different goods. As regards production for the domestic market, the manufacturer is granted regular quota import licences which do not necessarily involve any preferential elements like free foreign exchange or free choice of the sources of supply. Some licensing schemes permit the exporter holding preferential replenishment licences to utilize such licences for the import of items which are covered by his regular import licences. In this way, the exporter is enabled to import against his replenishment licence certain items which would otherwise not be covered by this licence. Such imports are counted only against the replenishment licence. Consequently, the exporter does not forego his entitlement under the regular licence.

39. The restriction which it may be advisable to apply would be the condition that the regular licence pertains to the product group for which the import replenishment licence has been issued; thus, if the Import Replenishment Licence has been issued against the export of engineering goods, the regular licence should also be for the manufacture of engineering goods.

(c) Use of Import Replenishment Licences for imports of machinery

40. Special licences are normally required for the imports of machinery and other equipment. In most cases, the issuance of such licences involves lengthy scrutiny and processing. Applications are examined mainly from two angles. One examination concerns the essentiality of the machinery required to be imported, for instance its essentiality for purposes of balance, modernization or replacement. Secondly, a check is made as to whether the item is available or not from indigenous manufactures. The processing of applications rests with a number of authorities. Thus, clearance as to the essentiality may be given by a regional director of industries where the factory is located, the indigenous clearance may be accorded by a central authority such as the directorate general of technical development, and the issue of the import licence will come under the competence of the chief controller of imports and exports, or a regional licensing authority, depending on the value of the machinery. The scrutiny as to the essentiality of the machinery can also involve investigations on the factory premises by an industrial development officer. Furthermore, applications for import licences may be allowed only once a year or on a half-yearly basis. Processing of the application may take up to half a year or more.

41. The lengthy scrutiny and processing can, in certain instances, adversely affect the export performance of the manufacturer-exporter. Though there is generally a need to scrutinize applications for imports of machinery and other equipment more thoroughly than applications for regular licences for the import of production inputs, in particular if large-scale investments are involved, the exporter must, on the other hand, be given the flexibility to import machinery more expeditiously if required by special circumstances. Thus, a manufacturer may suffer sudden breakdown or damage of part of his machinery through incidents over which he has no control. Manufacturers may also unexpectedly be able to secure large export orders with a good chance of continuous renewed orders

provided the first delivery is met promptly and to the satisfaction of the buyer. If in such cases the manufacturer is not enabled to import the machinery which was lost or is needed to expand the capacity to meet larger orders, he could be forced to close down the factory temporarily or could lose good export opportunities.

42. To meet such situations, the exporter who is engaged in export production may, on request, be allowed to utilize his Import Replenishment Licences for the import of machinery and other equipment needed.10/ Scrutiny requirements should be liberalized to the extent possible. In the case of a simple replacement of imported machinery, the exporter can be allowed to import without any scrutiny being undertaken by the authorities as to essentiality or indigenous availability. Where the imports are for expansion purposes, authorities may dispense with any scrutiny if imports do not exceed a certain maximum value; checks could be confined to the requirement regarding domestic availability, undertaken by one authority only - preferably a regional body such as a directorate general of technical development. A time limit of, say, 2 to 4 weeks may be fixed and upon its expiry without any decision being taken, it may be assumed that imports under the replenishment licence are sanctioned.

(d) Licensing for the import of spare parts

43. Most licensing schemes also provide for the issue of special licences for imports of spare parts. Licences beyond certain maximum values are issued by the competent central authority such as the chief controller of imports and exports, not by the regional licensing bodies. Here again, scrutiny and processing tend to consume considerable time. Licensing for spare parts could be made more automatic in the case of export-oriented industries. Apart from vesting the authority to issue licences for spare parts exclusively in regional licensing bodies, measures to streamline the issuance might aim at eliminating time-consuming assessments of the value of the licence. Three alternatives may be considered.

(i) Licences for the import of spare parts may specify the import entitlement simply as a fixed percentage of the value of the machinery for which the spare parts are required. The application for a licence would only have to be accompanied by a certificate furnishing the details of the imported or indigenous machinery for which spare parts have to be imported.

(ii) Well-established manufacturing enterprises with substantial regular export business may also be allowed to apply for spare parts on a "repeat" basis, i.e. on the basis of the value of licences for spare parts issued during the preceding year, without furnishing the details of the imported or indigenous machinery.

(iii) As in the case of licences for the import of machinery, preferential treatment for export-oriented enterprises may be granted by also

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10/ Such a facility is, for instance, provided for under the licensing scheme of India.

allowing them to utilize their Import Replenishment Licences for raw materials and components for the import of spare parts up to a fixed percentage of the face value of the replenishment licence.11/

E. Validity of import licences and time limit for opening letters of credit

44. Import licences are normally valid for a fixed period of time within which imports under the licence have to be carried out. In some cases, the validity period is limited to half a year. However, manufacturers have found that overseas suppliers catering to their import requirements sometimes offer delivery periods extending beyond six months. It may, therefore, be recommendable, that all import licences for export-oriented industries should be valid for a period of one year, to provide for cases in which the procurement of production inputs from overseas may take a considerable time.

45. Time limits are also fixed for opening letters of credit against import licences. In the case of cash licences 12/, the time limit may not be longer than 45 days. Time limits which are fairly short may not allow the manufacturer-exporter to contact foreign suppliers, conduct the negotiations, fix an economical price, and finally enter into a firm contract, which is the pre-condition for opening the letter of credit. Time limits for opening letters of credit should be sufficiently long to enable the manufacturer to negotiate the imports with no pressure of time. On the other hand, the manufacturer should be required to contact foreign suppliers as early as practicable, even before he applies for the licence.

11/ Under the licensing system in India, manufacturers-exporters may utilize their Import Replenishment Licences for the import of spare parts up to 20 per cent of the face value of the licence.

12/ Imports under licences may be (i) paid cash, (ii) paid for under credit lines provided by the supplier country, frequently on preferential credit conditions or (iii) effected in the context of barter arrangements. Preferential import licences for exporters are mostly cash licences.

Chapter III

THE ADMINISTRATION OF DUTY DRAWBACK SCHEMES AND POSSIBILITIES OF STREAMLINING THE PROCEDURES

46. Under import duty drawback schemes for the promotion of exports of manufactures and semi-manufactures, the amount of duty paid on imported goods is remitted on their exportation. The most simple form of drawback is the reimbursement of import duty paid on imported goods which are re-exported as such without having undergone any processing or manufacturing. The form of import duty drawback which is administratively complicated, but far more important as an export incentive measure, is that on imported materials and components used in the manufacture of goods which are exported. Intricate problems in the administration of this incentive arise with regard to the fixation of the rates of drawback and the processing of drawback claims.

A. Rates of drawback

47. Rates of drawback may be expressed in different ways. Thus, the rate may be expressed as the ratio that the import duty paid on the materials contained in the manufactured product bears to the f.o.b. value of the product. Other possibilities are to determine the rate as the import duty incidence per unit of weight, quantity or length of the export item. Rates of drawback can be individual rates or standard rates. The individual rate is fixed for an individual exporter in respect of a specific export item which is manufactured by this exporter. Standard rates apply to a class of allied goods and are valid for all industries which produce these items.

Table 1

Rates of drawback (standard rates)

(Import and excise duty)

Examples taken from Drawback Rate Schedule, India.

	Description of goods	Rate of drawback
(i) Export f.o.b. value	Bicycle tyres (sub-item 2003)	3.5% of the f.o.b. value
(ii) Weight of goods	Aluminium foil (sub-item 2203)	Rs. 9.50 per kg.
(iii) Area	Adhesive plaster (sub-item 1203)	Rs. 25.00 per 100 square metres
(iv) Quantity	Spectacle frames (sub-item 1927)	Rs. 6.20 per dozen
(v) Length	Metallic zip fasteners (sub-item 5902)	Rs. 151.00 per 1000 metres

Source: Export Drawback Rules with latest all-commodity rates (June 1976), CENSUS Publications, New Delhi.

48. The determination of an individual rate of drawback is done in three steps. The first step is the application for the fixation of the rate to be made by the exporter. At the second stage, the authorities concerned verify the statements made in the application. And the third and final step is the fixation of the rate by the authorities and its notification to the exporter.

B. Application for the fixation of an individual rate of drawback

49. The exporter has to submit an application in a prescribed form giving the complete information required by the authorities to determine the duty incidence per unit of the particular export item in respect of which the drawback is requested. This information mainly comprises the quantity and costs of materials used to produce one unit of the export item, the import duty paid on the imported inputs per unit of the manufactured product and the actual or estimated export price per unit.

50. Difficulties in furnishing complete information arise in cases where the exporter does not import the materials himself, but purchases the imported materials locally. Experience shows that, in most of these cases, he is not able to obtain from the domestic supplier the information on the import duty incidence. The reasons may be that the supplier did not import the materials himself, either, or considers the provision of such information as an unnecessary inconvenience. The same difficulty arises in cases where the exporter uses locally produced intermediate products with import content in producing the export item. Where the authorities are not prepared to assist the exporter to enquire about the duty incidence themselves when they verify the exporter's statements, the exporter is not able to submit a complete application and, consequently, to obtain the duty drawback benefit.

C. Verification of the exporter's statements by the authorities concerned

51. The fixation of individual rates of drawback require a detailed verification of the information and data furnished by the exporter. The verification is normally undertaken by a survey unit of the customs or central excise office in whose jurisdiction the factory is located. In practice, the verification can be time-consuming, and considerable delays in finalizing the verification tend to be the rule, rather than the exception. The verification may require inspection and checking on the factory premises where the export item is produced. The exporter may also have to give samples of the export product, together with particulars of the formula of its manufacture, so that the content of imported materials in the finished product can be ascertained in laboratory tests.

52. The exporter can contribute to eliminating administrative delays by maintaining his accounting and storage records in such a manner that the statements he makes and other particulars deemed to be relevant can more easily be verified by the inspecting officers. Furthermore, it has been observed that non-submission of data prior to shipment causes subsequent difficulties in the verification, whereas the duty incidence can more easily be verified and ascertained while export goods are in the process of manufacture. In this regard, experience shows some lack of co-operation on the part of exporters who consider the information provided by them in their applications as sufficient and tend to consider the whole procedure of verification as an additional unnecessary burden.

D. Fixation and notification of individual rates of drawback

53. The fixation of the rates takes further time, as they are not fixed by the same authorities which have undertaken the verification and which are only authorized to recommend a rate of drawback. As compared to the verification which is normally done by field offices of the customs and central excise administration, the final fixation of the rate is entrusted to a central body such as the ministry of finance or the central board of revenue. Furthermore, more than one authority may be involved at this stage. Thus, it may be that the ministry of finance fixes the rate which has then to be approved of by some other authority such as the controller and auditor-general. Finally, the rate of drawback is notified to the exporter who submitted the application.

54. The operation of drawback schemes with individual rates of drawback would require the fixation of a rate with regard to each export item of each manufacturer-exporter if the scheme was to cover all of a country's exports of manufactures and semi-manufactures. The duty incidence on export products with imported inputs not only varies with the export item and the raw materials and components which were imported and used in producing the goods, but varies also for different qualities or grades of one and the same material used in production. Furthermore, the quantity or grade of the imported material used in manufacturing a particular item may differ from manufacturer to manufacturer. The resulting host of individual rates adds to making the operation of the drawback scheme unwieldy and cumbersome.

55. In practice, the determination of an individual drawback rate - that is application, verification and fixation - may take a long time. Delays of several months or even more than a year are not uncommon. In most cases, the rate is worked out only long after the shipments have taken place. Thus, the exporter when making an offer to a potential buyer has no means of knowing what drawback he will get and, consequently, he is not able to make a precise export costing. This uncertainty may result in some cases in the loss of an export order.

E. Processing and payment of the drawback claim under individual rates

56. Once the manufacturer-exporter has been notified the individual rate of drawback, he can claim the drawback according to this rate for the particular export item. At the time of export, the customs authority has to verify the quantity of the goods and to identify them as those for which the drawback at the particular rate is claimed by the exporter. The quantity of the goods can normally be verified easily, by means of the shipping documents and physical checks. The identification of the goods does not normally create problems in the case of standardized items. For instance, in the case of exports of electric fans where the duty drawback rate varies according to the size of the fan, the check by the customs authority would simply be measuring a few fans in each export consignment. However, considerable delays may occur when the customs authorities draw samples on exportation in order to verify the import content more thoroughly. This may, in particular, happen in the case of items for the production of which different qualities or grades of the same imported raw material can be used, each grade carrying a different import duty incidence. In some instances, customs authorities may even test the export product in a laboratory to verify the composition of the export product, and the grade of imported materials used.

57. A particularly intricate problem arises in cases in which the imported inputs are also available domestically. If the customs authorities decide to check whether imported inputs, in regard of which duty drawback is claimed, or the locally produced material has been used in manufacturing, the processing of the drawback claim can become extremely protracted. It may even happen that the customs authorities are unable to determine, either by laboratory tests or by "tracking the way" of the imported inputs, which material, imported or local, was used in producing the exported product. Where the customs officer is not willing to use his discretionary power in favour of the exporter and accept the exporter's statement prima facie, the drawback claim would have to be rejected.

58. It is a general complaint by exporters that refund claims at customs consume considerable time. In particular in cases where laboratory tests are made, abnormal delays can occur. The settlement of a drawback claim may take anything between six months and two years. Because of inordinate delays in the disposal of drawback claims and, consequently, their payment, financial resources of exporters are blocked for a longer time than necessary. This can thwart the very objective of providing an incentive through drawback on exports.

F. Drawback of excise duty and sales tax on locally produced inputs

59. In some countries, exporters are also granted a drawback of excise duties and sales tax paid on indigenously produced materials used in the manufacture of goods which have been exported. In a number of cases, separate schemes are operated with regard to the refund of import duty, excise duty and sales tax. As a consequence, separate rates are applied and the administration of the schemes may lie with different authorities. In practice, this proliferation of paperwork and administrative procedures not only aggravates the unwieldiness of the schemes, but can also discourage the exporters. In cases where exporters could claim two or three drawback refunds in respect of the same export item, they may apply only for the refund which is the most substantial or may even not bother about exporting at all, rather than burden themselves with the unmanageable task of applying for the fixation of three different rates and claiming refunds under three schemes with regard to one export product.

G. Streamlining and expediting drawback procedures

60. In order to speed up and simplify drawback procedures, a number of measures can be implemented. First, the discretionary powers of authorities in the disposal of each application may be curtailed. Secondly, drawback rates may be standardized to the extent possible. Thirdly, provisional payment of drawback may be allowed and the disbursement made immediately after exportation. And, fourthly, standing committees on drawback may be established to consider further procedural improvements and examine cases of delay referred to them by exporters. Each of these measures is discussed in greater detail hereinafter.

H. Less discretionary powers of administrative authorities

61. As regards the fixation of individual rates of drawback, a reasonable period of, say, three months may be specified for the finalization of each case which should be strictly adhered to. With regard to the processing of claims of drawback, claims submitted by the exporter on the prescribed form should be

acknowledged immediately by the customs authority after allocating a claim number to it. The customs authority could be required to dispose of all refund claims in serial order and within a maximum period of three months. If a claim is rejected the grounds for the rejection should be stated in writing to facilitate any appeal which the exporter might wish to make. One may also consider granting the exporter interest payment at a rate of, say, 1 per cent per month on all refunds which are delayed beyond three months. When the authorities determine an individual rate of drawback or process a drawback claim, it would speed up procedures if they demanded clarifications or additional documents in one operation instead of making queries and raising objections in a piecemeal fashion. Large collectorates of customs, which may have to process some 500 claims per day, may consider, within their fiancial possibilities the practicability of computerizing claims processing.

I. Standardization of rates of drawback

62. In order to further streamline drawback schemes, standardized rates of drawback may be fixed with regard to as many export items as possible. Instead of rates which are fixed on the application of a manufacturer-exporter for his individual products, standardized rates apply to a class of allied goods and are valid for all industries which produce these items. The major simplification achieved is that the duty incidence is determined with reference to the average proportions in which the raw materials are generally used in the industry in producing a certain class of goods, the value being derived chiefly from statistical data. The information which would be required from the manufacturing industries relates mainly to the materials generally used in the manufacture of the export products and the individual manufacturer-exporter would not have to furnish detailed data as required for the fixation of individual rates.

63. In determining standardized rates of import duty drawback, the administrative authorities have regard to (i) the average quantity or value of the imported materials used for the production or manufacture of one unit of the particular class of goods; (ii) the average amount of duties paid on imported materials which are used in the manufacture of one unit of the items in question; (iii) the average amount of duties paid on materials wasted in the process of manufacture; and (iv) the average amount of duties paid on imported materials used for containing or packing the export goods.

64. Standardized rates can be fixed comparatively expeditiously. Individual applications by manufacturers-exporters are not necessary, and the time-consuming verification of the composition of the export products of each individual exporter is eliminated; thus inspections on factory premises to examine the accounting records, the consumption of raw materials and the manufacturing process can be confined to a few cases, undertaken on a spot-check basis, if they are necessary at all. As standardized rates are average rates based chiefly on statistical data, the bulk of the information required can be obtained in written form from various sources such as the manufacturers' associations concerned, governmental authorities which collect information on industrial production on a continuous basis such as a ministry for industrial development, and from the manufacturers themselves, who may be requested to complete questionnaires.

Furthermore, in many cases the standardized rates are fixed for export items in respect of which individual rates have been determined and, thus, information is already at hand on a broad basis. Standardized rates can be notified easily to manufacturers-exporters in the form of public notices describing the export goods covered and giving the pertaining rates of drawback.

65. Standardized rates offer a number of advantages, mainly resulting from the fact that the rates are average rates which do not attempt to determine the duty incidence with meticulous precision. The advantages may be set out as follows:

(i) By way of standardization, the multitude of individual rates for various allied items can be merged into one average rate applying to all of these items. In particular manifold rate variations resulting from the use of different qualities and grades of materials in producing an export item can, thus, be eliminated.13/ In cases where production inputs can be imported and are also available domestically, the rate is normally calculated on the basis of the average duty incidence on imported and indigenous materials.

(ii) Standardization of rates facilitates the inclusion of duty incidences borne by locally purchased imported materials or by locally produced intermediate goods with import content.14/ In the case of individual rates, these duties are not normally taken into account, as the exporter is in most cases not able to indicate the duty incidence in his application.

(iii) Standardized rates are not affected by fluctuations of the prices of materials used in production. Rates can be based on the average price over a previous period of, say, one to three years. In the case of individual rates, price fluctuations with regard to inputs and the resulting changes in the amount of import or excise duties levied would necessitate frequent amendment of the individual rates.15/

(iv) Standardization facilitates the fixation of combined rates taking into account import duties on imported production inputs as well as excise duties and sales tax levied on indigenous materials and components used in manufacturing the export item.

13/ Under the excise duty rebate scheme in Pakistan, individual drawback rates with regard to exports of carpets took into account all duty incidence variations on account of the use of different grades of woollen yarn as well as the consumption of the same grade of woollen yarn varying with the thickness of the carpets. Furthermore, rates were amended with fluctuations of the prices of the woollen yarn inputs resulting in changes of the duty incidences. Ultimately, about 1,800 individual rates had been fixed. Now, only one standardized rate based on average figures of all relevant factors has been determined.

14/ For instance, where a manufacturer-exporter of footwear purchases locally manufactured leather in the production of which imported dyes and chemicals were used.

15/ See also footnote 13.

(v) Standardized rates simplify the processing of drawback claims. As a standard rate is based on the average input-output-relationship of a certain product group, checks on exportation as to the exact composition of the goods are unneeded. This eliminates completely any necessity to draw and test samples. Only the usual customs checks are undertaken.

J. Provisional payment of drawback claims

66. Provisional payment of drawback claims may be allowed to reduce the delays in the payment of the refund. The provisional disbursement could be made immediately after the exportation of the goods. Two alternatives have to be distinguished, namely, one where rate of drawback has not been worked out, the other where the rate has been fixed so that the claim of drawback could be processed by the competent authority. Considerable delays occur in both cases. From a fiscal point of view, provisional disbursement seems less difficult in cases where a rate has been determined than in cases where the exporter has only applied for the fixation of a rate and the provisional payment would have to be made exclusively on the basis of the exporter's statements. Accordingly, provisional payment may be allowed, in the first alternative, of up to 75 per cent of the drawback claim, and, in the second alternative, of up to 90 per cent. Furthermore, in the first case, the exporter may be required to furnish a bank guarantee which would be liquidated upon final sanction of the claim.

67. To expedite the provisional disbursement, payment may be channelled through commercial banks which would pay the exporter upon presentation of the relevant export documentation and would be reimbursed by the Treasury or Central Bank.16/

K. Standing committee on drawback

68. In view of the manifold problems which may arise in the administration of drawback schemes, developing countries operating such schemes may consider the establishment of a standing committee on drawback. The purpose of the committee would be to follow closely the day-to-day working of the drawback scheme, to identify problems and bottlenecks and to make suggestions for improvements. The committee may be constituted of members drawn from the various authorities

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16/ In India, a Duty Drawback Credit Scheme is operated providing for provisional payment upon exportation provided a rate has been fixed. Under this scheme, commercial banks grant advances to the exporters against their duty drawback entitlements, as provisionally certified by the customs authorities pending final sanction and payment; the commercial banks are, in turn, granted full refinance by the Central Bank. As this scheme is operated as an export incentive measure, the advances and the refinance are furnished interest-free; the banks may, however, charge a reasonable amount to cover their administrative costs. The credit period of the advance can be up to a maximum of 90 days, beyond which the bank either does not allow the advance or charges normal interest. The advance is paid to the exporter after the shipment of the goods. The customs authorities process the claim for drawback in the usual way and arrange for payment of the amount of drawback to the commercial bank concerned.

responsible for devising and administrating drawback schemes. The committee can meet periodically in different places such as industrial centres and port towns, and give hearing to trade and industrial interests; it can then formulate its recommendations on the basis of the representations made. The committee could, in particular, sort out problems in the context of rate fixation. The main task in this respect would be to frame principles that are to govern drawback in individual cases where there is any difficulty in the adoption of a general pattern of calculation.

L. Remaining shortcomings

69. Shortcomings which are difficult to eliminate through procedural streamlining mainly concern the adequacy of drawback rates. The test of a satisfactory system of drawback is its ability to provide full refund of the duty incidence. The reimbursement should be as much as the duties paid, to achieve the objective of making the export item competitive in export markets. It is a general complaint on the part of exporters that drawback rates are in many cases inadequate, that is less than the duty paid.

70. A number of reasons can account for inadequate rates. Thus, the duties may have been raised substantially whereas the necessary amendment of the rates of drawback are only undertaken with considerable delays. Likewise, prices of production inputs can have increased sharply, without being followed up expeditiously by changes of the rebate rates. And, thirdly, standardized rates may in individual cases prove to be inadequate, as they are based on statistical averages.

71. To some extent, a remedial measure would be to calculate standardized rates liberally in favour of the exporter. In cases where in the production of an export item different grades of an imported material can be used, standardized rates may be worked out on the assumption that the exporter uses only the best quality for export production. Similarly, when materials can be imported and are available indigenously, an assumption could be made to the effect that the exporter uses only the imported material carrying the high import duty incidence. Such assumptions could be made without any further procedural requirements, provided the exporter has actually imported the quantity of materials required to produce the quantity of the exports he made.17/

17/ Example: 30,000 units of imported materials have been used during the year on which import duty of 60,000 dollars has been paid. In addition, 20,000 units of the domestic materials have been used, for which an excise duty of 20,000 US dollars has been paid. Out of the total production with an input of 50,000 units, exports amount to 40 per cent (20,000 units) and the balance of 60 per cent (30,000 units) was sold on the domestic market. For the purpose of calculating drawbacks, two alternative assumptions could be made. On the one hand one may assume, that 40 per cent of both the imported and the indigenous materials were used in the production for export. Since the total duties paid amounted to 80,000 US dollars, the drawback on the exported units would be 40 per cent of total duties, that is 32,000 US dollars. On the other hand, one might also assume that the entire production for exports contains only imported raw material. In that case, the drawback due would be 40,000 US dollars. In practice, it can be difficult for the customs authority to verify which of the two alternatives applies. The amount which is usually given as drawback is normally calculated on the basis of the first assumption (principle of "weighted average").

Chapter IV

THE ADMINISTRATION OF MANUFACTURE-IN-BOND FACILITIES AND DUTY-FREE IMPORTATION

72. A manufacturer may be permitted to import duty-free materials that are used in the production of goods intended for export. Such a temporary importation facility can be an arrangement for manufacture-in-bond or simply permission to import duty-free on the execution of an export bond. As in the case of duty drawback schemes, the administrative arrangements have to be designed in such a way that procedures do not become unduly cumbersome and protracted.

A. Manufacture-in-bond

73. Under this facility, the customs authority allows clearance of the imported materials without payment of duty and the removal of the materials under customs supervision to the manufacturer's factory; normally, the manufacturer has to furnish a bank guarantee of an amount equal to the amount of the duty chargeable. The part of the factory where the materials are stored and used in the production and where the manufactured goods are kept, are under the control of a customs officer posted at the factory. This part of the factory is locked and sealed with the customs seal after each day's work until the manufacture of the export products is completed. The goods are then removed to the part of the factory where they are packed and sealed under customs supervision for shipment. The bank guarantee furnished by the manufacturer is released when the goods manufactured in bond have been shipped and duties are paid on any wastages and on remnants cleared for home-consumption.

74. In practice, bonded manufacturing is used by various industries, among them producers of ready-made garments, toys, radios, refrigerators, air-conditioning equipment and bicycles. The imported production inputs vary accordingly, and can, for instance, comprise cloth, yarn, zip-fasteners and buttons in the case of the manufacturing of ready-made garments, plastic items in the case of toy production, or three-speed hubs for bicycle manufacturing.

75. Owing to the amount of checking and security work by the customs authorities, the manufacturer is burdened with a substantial additional workload. He is required to maintain detailed accounts of the imports, production, wastages of the materials imported, the finished goods and the exports made. He has to store the imported materials and the goods produced for export separately in the factory. The materials and manufactured goods have to be properly marked to tally with the accounting records. And the manufacturer has to provide the customs officer on his factory premises with all facilities which he might require for fulfilling his duties.

76. Manufacture-in-bond facilities are expensive. The manufacturer bears the cost of the customs staff posted at his bonded premises as well as for those supervising the transport of the imported materials and the export goods. The bank guarantees to be furnished entail the payment of bank charges and act as a constraint on credit limits and overdraft facilities given to the manufacturer. On account of the cost burden involved, manufacture-in-bond facilities are mostly availed of by larger enterprises possessing sufficient financial strength. Small manufacturers cannot, normally, afford the facility.

77. As personal supervision on the spot by customs officials is required, manufacture-in-bond does not lend itself easily to wide application. In the case of large industrial plants, it becomes impracticable. Furthermore, customs authorities normally lack sufficient properly trained staff to serve a great number of bonded manufacturing enterprises. In special cases, additional staff with specialized knowledge may be required. For instance, in the case of precious stones, imported as raw stones and cut and polished in a bonded factory for re-exportation, checks by a specialist in gemmology may be necessary to prevent diversion of stones into the local market.

78. Manufacture-in-bond is not necessarily confined to the manufacture of goods meant exclusively for export. The finished products may be for export and for selling in the domestic market. However, in practice manufacture-in-bond is normally utilized by manufacturing units which are wholly export-oriented. The reason is that customs controls become more complicated and, consequently, more cumbersome for the manufacturer when part of the production has to be cleared for home-consumption. Clearance for home-consumption necessitates the exact verification of the import content on which import duty has to be paid. Accordingly, the manufacturer is required to maintain accounts in even greater detail than is already the case if production is only for export. And customs authorities might have to draw samples on clearance for home consumption to examine their composition in laboratory tests. The manufacturer may also have to pay interest from the date of importation in respect of the duty to be paid on the imported materials in the goods cleared for the domestic market.

B. Duty-free importation on the execution of an export bond

79. As an alternative export incentive measure, permission may be granted, on the execution of an export bond, to import materials used in manufacturing for export duty-free. As customs authorities consider it difficult to exercise effective supervision regarding whether and to what extent the imported materials are actually utilized for the manufacture of goods which are exported, permission to import production inputs duty-free is not granted liberally. In a number of countries, this facility is not offered at all. And in countries which operate schemes of duty-free importation, their scope of application is strictly limited with a view to facilitating customs controls exercised to prevent any leakage of the imported materials into the domestic market.

80. Accordingly, schemes normally cover only imports of goods which do not lose their identity in the process of manufacturing and, consequently, can easily be identified at the time of their re-exportation. Goods of this kind are, for instance, plastic items such as shirt buttons, plastic parts for fountain pens, iron and steel items such as zip-fasteners, or even leather panels for the production of footballs. As the number of imported items required to produce one unit of the export item is known, customs authorities can verify on exportation the amount of imported materials used by checking the quantity of goods exported. In cases where imported production inputs do not remain easily identifiable in the finished product, duty-free importation is not normally allowed. In such cases, exporters who want to avoid payment of import duty, instead of paying duty and claiming refund under drawback, would have to resort to bonded manufacturing.

81. When the manufacturer applies to the customs authorities for exemption from import duty he has to give full particulars of the goods and the purpose for which they are imported. Before clearance of the first consignment, the importing manufacturer has to furnish a bank guarantee to the customs authority binding him to re-export the goods within a certain period. The amount of the bank guarantee can be twice the amount of the customs duty in respect of which the exemption is granted. If the goods are not exported within the stipulated period the customs duty has to be paid; where payment is not effected promptly, the customs authority will enforce the bank guarantee. Customs duty has to be paid on any excess material that is left over after utilization in manufacturing the export products and is to be cleared for home consumption.

C. Possibilities to streamline facilities allowing temporary duty-free importation

82. Schemes for manufacture-in-bond and duty-free importation on the execution of an export bond eliminate shortcomings of drawback schemes which result from inadequacies of refunds of import duties paid. On the other hand, manufacturing-in-bond is administratively unwieldly on account of the strict customs supervision. And schemes allowing duty-free importation on execution of an export bond are implemented only on a limited scale on account of the great risk that imported materials might be diverted into the local market. However, to the extent that this facility is normally applied - that is in cases where production inputs are clearly identifiable on re-exportation - the permission to import them duty-free constitutes an export incentive measure which is comparatively easy to administer.

83. Consideration might be given to the possibilities of applying this incentive measure on a larger scale and with regard to a greater range of production. The main difficulty is to expand the range of admissible import items and, at the same time, to maintain administrative simplicity. In particular, the type of unwieldly continuous customs controls exercised in the case of manufacture-in-bond has to be eliminated.

84. An alternative solution would be to determine the quantity and value of the imported inputs required for manufacturing one unit of the product to be exported. Subsequently, controls would be based, to the extent possible, on import and export documentation and the exporter's accounting and inventory records instead of on continuous physical supervision by customs personnel. Once the input-output ratio has been worked out, the quantity of imported materials used in manufacturing goods which have been exported can be determined rather easily. The quantity and identity of the exported goods can be established on the basis of the export documentation and by the usual customs checks made on exportation. When the quantity of exported goods is known, the quantity of imported inputs used would be calculated simply by applying the equation which gives the input-output ratio of the particular item exported. The adjustment of inputs imported against products exported could be done at periodic intervals of, say, one month. If shortfalls occur in the use of imported materials for export production, import duty has to be paid on the imported quantity which cannot be adjusted against exports.

85. As a measure of further procedural simplification, computation of the input-output ratios could, first, be done by the manufacturer himself and, subsequently, be checked and certified by a chartered engineer. This would facilitate and expedite the scrutiny by the technical authorities who could, by and large, rely on the certificate of the chartered engineer and confine themselves to random checks. If a manufacturer changes the formula for manufacture of a product, involving change in raw material requirements, he would be required to submit a revised certificate of the chartered engineer.18/

86. Governments would have to decide how far they are prepared to relax the strict customs controls applied in the case of bonded manufacturing and to allow duty-free importation of production inputs on more liberal conditions with a minimum of physical checks and supervision. Schemes with simplified procedures where checks are undertaken mainly on the basis of input-output ratios certified by chartered engineers appear to be suitable if a manufacturer maintains a regular export production with continual import requirements and if the composition of the export items produced is not too complicated so that the input-output relationship can be expressed as a simple equation. In the case of production inputs which lose their identity in the process of manufacturing, export products which do not comprise more than two or three imported inputs may thus be eligible for simplified duty-free importation facilities.

18/ A scheme on these lines is operated in India for a limited range of production inputs imported under advance licences; the computations by the chartered engineers are, however, in each case scrutinized by the technical authorities such as the Director General for Technical Development or the Textile Commissioner. See also "Import Trade Control Policy", Ministry of Commerce, Government of India, vol.II, appendix IV and annexure I to appendix IV.

Chapter V

PROCEDURAL STREAMLINING TO EXPEDITE THE PROVISION OF FINANCE FOR EXPORT

87. The manufacturer-exporter requires finance at both the pre-shipment and the post-shipment stage in adequate measure and at reasonable cost. Furthermore, it is essential that he obtains the finance expeditiously so that he can meet his export orders on time. Consequently, government-sponsored export financing schemes have to be devised in such a way that the manufacturer is furnished with export finance without any delays, enabling him to manufacture and export the export item within the shortest time span possible.

88. Under government-backed export financing schemes providing preferential refinance to commercial banks through the central bank, export finance is frequently furnished to the exporter on a case-by-case basis. Accordingly, the obtaining of preferential finance requires that the manufacturer has already secured a firm export order. Granting export finance on a case-by-case basis for specific export orders tends to be time-consuming. Delays can occur at two stages. First, the commercial bank may take its time in checking the exporter's application and disbursing the loan. Secondly, the commercial bank may not be furnished with the preferential refinance by the central bank immediately after disbursement of the export credit to the exporter. Schemes may also require that only the head office of the commercial bank can apply to the central bank for refinance. Thus, a further delay will occur in all cases where local branches have granted the export finance. Delays in the provision of preferential refinance act as a disincentive because the bank has to fund the low-interest export credit out of its own resources until preferential refinance is obtained.

89. Furnishing export finance to the exporter can be expedited considerably if the finance is not granted on a case-by-case basis, but if revolving credit limits are fixed by the banks for each exporter. To avoid any lengthy evaluation of the exporter's credit standing, the credit limit may be fixed simply on the basis of the exporter's previous export performance, measured by his export receipts during the previous financial year. An exporter could, for instance, be given a credit limit equivalent to 25 per cent of such export performance. As the entitlement so established is made available on a revolving basis, the actual credit available would be a multiple of 25 per cent depending on how quickly the exporter realizes the export proceeds. Seasonal demands may also be taken into account. Accordingly, the exporter may be allowed to overdraw the credit limit to meet peak requirements. The maximum credit period allowed under the credit limit may be 180 days for the pre- and post-shipment period. If, for instance, the time for buying the raw materials and producing the export item does not normally exceed 60 days, a period of 120 days would be available as the maximum period for post-shipment credit granted by the exporter to his overseas buyer. Under a revolving credit limit, the commercial bank can grant export finance without any delay as and when the exporter requires the finance to meet an export order. The advantages for the exporter are that he can draw at convenience, obtains the finance instantly and pays interest on the outstanding amount only.

90. The obtaining of refinance by the commercial bank from the central bank can be speeded up in the same manner. The commercial bank would be granted an overall refinancing limit on an annual basis, depending on the estimated requirements of the bank concerned. The application for the fixation of the limit at the beginning of each year would also have to indicate the amounts which the bank would like to draw at various offices of the central bank. Where necessary, banks may also approach the central bank for an increase of the overall limit during the course of the year. Within the refinancing limit sanctioned, the commercial bank is eligible to obtain refinance immediately after the bank has disbursed the credit to the exporter. To make a speedy disbursement possible, say within one day, the branch of the commercial bank which has disbursed the credit may claim and obtain the refinance directly from the nearest office of the central bank. Verification by the central bank as to the eligibility of the credit for preferential refinance would be done post facto. In cases where the exporter was not eligible for preferential finance and, consequently, the bank was not entitled to preferential refinance, the bank would have to pay penal interest to the central bank, and would, in turn, demand payment of penal interest from the exporter.

Chapter VI

ADMINISTRATIVE ASPECTS OF INCOME TAX CONCESSIONS

91. Export incentives with regard to income tax can be provided in the form of exemptions from and reductions or refunds of income tax in respect of all or certain of the earnings from exports of manufactures and semi-manufactures. From an administrative point of view, a refund of income tax paid on export earnings would entail more extensive processing than the application of reductions or exemptions. The reimbursement of taxes paid may involve more than one authority, and, furthermore, is normally subject to a more detailed scrutiny than reductions or exemptions where authorities tend to rely to a greater extent on the manufacturer's self-assessment. The concession usually granted is a reduction of income tax. Total exemptions from income tax are normally encountered in the form of tax holidays, which are not necessarily confined to export earnings though they may be applicable to export-oriented industries only. To facilitate the application of income tax concessions, the laws stipulating the concessions have to be clear and unambiguous and the administrative procedures for their implementation must be simple to allow expeditious processing.

92. The exporter may be granted an income tax reduction which is determined as a specified percentage of the income tax leviable. The amount of the reduction may be fixed in relation to various factors such as the size or the growth of the export turnover. Thus, in some developing countries, income tax concessions provide for reductions which mount proportionately to the improvement in the manufacturer's export performance. For instance, when the exports of a manufacturer-exporter do not exceed 10 per cent of his total sales, no reduction may be granted. Where the export sales exceed 10 per cent but do not exceed 20 per cent of total sales, a reduction of 30 per cent of the income tax attributable to export sales may be given. And in cases where the share of exports in total sales is above 30 per cent, a reduction of 40 per cent of the income tax of export earnings may be allowed for. Alternatively, a scheme providing for an income tax reduction may stipulate a uniform rebate. For instance, a reduction of 50 per cent could be granted with regard to the income tax on all earnings from manufactured exports.

93. The workload involved in the administration of an income tax reduction which varies with the export performance is not considerably heavier than the administrative workload of schemes which stipulate a uniform rate; the additional calculation required under the first type of scheme is only the determination of the share of export sales in total sales. Basically, the advantage of the application of a uniform rate is not of an administrative nature but lies in the fact that the exporter can, in his calculation of the export price, take into account the tax reduction and thus fix a more competitive price. This is more difficult when the tax reduction varies with the export performance, which the exporter may not be able to assess accurately in advance.

94. When a reduction of income tax is granted, it is necessary to ascertain the taxable export income in respect of which the concession is due. In most cases, the exporting enterprise will also produce for domestic selling. However, the rate of profit on domestic sales and on export sales will not normally be the same. A precise calculation of the taxable profits from exports can pose difficulties with regard to both the accounting required on the part of the manufacturer-exporter and an effective control by the tax authorities. To avoid proceedings which might be complicated and cumbersome, the reduction of income tax on export

earnings may be granted on the assumption that both domestic and export sales yield the same rate of profits. Thus, the profit from exports can be taken as a proportion of the total profits; this proportion would, then, correspond to the share which the export sales constitute in the total sales of the undertaking. 19/ Though this does not necessarily disclose the actual profits made on exports, it provides a simple rule which enables the tax authorities to process applications for an income tax reduction on export earnings more expeditiously.

95. Manufacturing exporters who want to eliminate computation problems completely sometimes set up subsidiaries which produce exclusively for export. In a number of countries the tax authorities encourage manufacturers to choose this alternative to avoid any loss of revenue which might be caused if export profits are not precisely calculated.

19/ Export profits = $\frac{\text{value of export sales}}{\text{value of total sales}}$ x total profits